

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

**IN RE: BROILER CHICKEN GROWER
ANTITRUST LITIGATION**

MDL No. 6:20-2977-RJS-CMR

Hon. Robert J. Shelby

Hon. Cecilia M. Romero

JOINT STIPULATION AND PROPOSED ORDER

Plaintiffs¹ and Defendants², through their respective undersigned counsel, are pleased to inform the Court that the Parties have reached the following agreement to avoid a dispute regarding the production of so-called “downstream” materials concerning Defendants’ sales of broiler chicken:

1. Plaintiffs will defer at this time their requests for the production of downstream (*i.e.*, broiler sales) data and documents (*e.g.*, as called for in response to RFPs Nos. 4, 17, and 21 (to Perdue) and Nos. 5, 18, and 22 (to Tyson and Pilgrim’s); Nos. 4, 16, 20, and 21 (to Sanderson and Koch)).
2. Each Defendant will inform Plaintiffs by July 29, 2021 (two weeks after the deadline set by the Court for the amendment of pleadings), whether: (1) the Defendant’s expert(s) intend to rely on downstream data and documents and/or offer opinions based on downstream issues, or

¹ “Plaintiffs” includes Haff Poultry, Inc., Nancy Butler, Johnny Upchurch, Jonathan Walters, Myles Weaver, Melissa Weaver, Marc McEntire, Karen McEntire, and Mitchell Mason on behalf of themselves and all others similarly situated, as well as all other named plaintiffs in any of the underlying actions that comprise this MDL.

² “Defendants” includes Tyson Foods, Inc., Tyson Chicken, Inc., Tyson Breeders, Inc., and Tyson Poultry, Inc. (collectively, “Tyson”); Pilgrim’s Pride Corporation (“Pilgrim’s”); Perdue Foods, LLC (“Perdue”); Sanderson Farms, Inc., Sanderson Farms, Inc. (Foods Division), Sanderson Farms, Inc. (Processing Division), and Sanderson Farms, Inc. (Production Division) (“Sanderson”); and Koch Foods, Inc. and Koch Meat Co., Inc. (doing business as Koch Poultry Co.) (“Koch”).

(2) the Defendant otherwise intends to make use of downstream data or documents in their defense of this action.

3. In the event Plaintiffs move for leave to amend their complaint after July 15, 2021, and the Court grants such relief, each Defendant shall have fourteen (14) days from the filing of each amended complaint to inform Plaintiffs whether it or its expert(s) intends to rely on or make use of downstream data or documents.
4. If all Defendants advise Plaintiffs that neither their experts nor the Defendants intend to rely on or make use of downstream data or documents by the applicable deadline contemplated in paragraphs (2) and (3), no further production will be required from any Defendant in response to requests for the production of downstream data and documents (*e.g.*, as called for in response to RFPs Nos. 4, 17, and 21 (to Perdue) and Nos. 5, 18, and 22 (to Tyson and Pilgrim's); Nos. 4, 16, 20, and 21 (to Sanderson and Koch)). If any Defendant advises Plaintiffs that its expert(s) or the Defendant intends to rely on or make use of downstream data or documents by the applicable deadline contemplated in paragraphs (2) and (3), the Defendants will meet and confer with Plaintiffs promptly and in good faith to agree on the timing and scope of production of downstream data and documents.
5. If all Defendants advise Plaintiffs that neither their expert(s) nor any of the Defendants intend to rely on or make use of downstream data or documents by the applicable deadline contemplated in paragraphs (2) and (3), then the parties do not intend to argue or present evidence to the Court or jury regarding procompetitive effects and anticompetitive effects in the downstream market, and the parties agree that (A) Plaintiffs and their expert(s) will not argue or present evidence to the Court or jury that downstream market effects support Plaintiffs' claims or damages or attack Defendants or their expert analyses based on their

purported failure to consider downstream market effects; and (B) Defendants will not argue or present evidence to the Court or jury that attack Plaintiffs' claims or expert analyses based on a purported failure to consider downstream market effects. Downstream data or documents for purposes of this stipulation includes downstream data or documents from any Party, third party, public entity, or other source.

Dated: April 12, 2021

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APPROVED AND SO ORDERED.

DATED:

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